

The Resources Agency

Gray Davis
Governor



Mary D. Nichols
Secretary

of California

California Conservation Corps • Department of Boating & Waterways • Department of Conservation
Department of Fish & Game • Department of Forestry & Fire Protection • Department of Parks & Recreation • Department of Water Resources

December 29, 2000

Mr. William J. Keese, Chairman
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Re: Review of the Energy Commission's Certified Program for Siting Powerplants

Dear Chairman Keese:

This letter responds to yours dated November 7, 2000, requesting my review of the Energy Commission's certified program for siting powerplants. I am happy to inform you that, having reviewed the Energy Commission's site certification program pursuant to Public Resources Code section 25541.5, I have determined that the program continues to meet the criteria for certification under Public Resources Code section 21080.5. The original certification of the Commission's regulatory program for site certification dated 1981, including all amendments adopted through this date, is hereby continued in effect.

Among the amendments added since 1981 are the post-certification amendment process in Title 20, California Code of Regulations, section 1769, and the six-month application process in Article 7, sections 2021--2031. The Commission may, therefore, continue to process any notice of intention, application for certification, and post-certification amendment under its current regulatory program without preparing an environmental impact report.

I do want to call your attention to the need to submit any future changes to the certified program for review and comment pursuant to P.R.C. section 21080.5 (f) so that your critically important siting program can continue to meet the requirements for certification of compliance with the California Environmental Quality Act. This would include any changes to the emergency regulations for an expedited process adopted on November 15, 2000 that must go through formal rulemaking before they expire next year.

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California Coastal Commission • California Tahoe Conservancy • Coachella Valley Mountains Conservancy • San Joaquin River Conservancy
Santa Monica Mountains Conservancy • Colorado River Board of California • Energy Resources, Conservation & Development Commission
San Francisco Bay Conservation & Development Commission • San Gabriel at Lower Los Angeles Rivers & Mountains Conservancy
State Coastal Conservancy • State Lands Commission • State Reclamation Board • Native American Heritage Commission

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I understand that the Commission plans to conduct a rulemaking proceeding next year to amend the site certification regulations. One issue I hope you will continue to explore is improving public accountability. I am aware that the Commission is one of the few agencies with a Governor-appointed Public Adviser whose primary responsibility is to facilitate public participation in the Commission's proceedings. The current site certification program regulations explicitly direct that all CEC meetings are public, allow for public comment at the hearings, and invite public comment on proposed decisions. I am pleased that the Commission is committed to exploring ways to clarify the opportunities for timely and effective public participation, especially at the adjudication stage. You have my complete support for this effort.

If you have any questions about the certification of the Commission's regulatory program, please contact Margret J. Kim, General Counsel for the Resources Agency, at 916-653-5481.

Yours sincerely,

Mary D. Nichols,
Secretary for Resources